

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JANE DOE,

Plaintiff,

v.

SCHOOL OF THE ART INSTITUTE OF
CHICAGO, JOHN PHILLIPS, LISA
WAINWRIGHT, AMANDA DASILVA,
MICHAEL NICOLAI, and BETH
WRIGHT,

Defendants.

No. 18 CV 4240

The Honorable Andrea R. Wood

**DEFENDANT JOHN PHILLIPS'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Defendant John Phillips ("Phillips"), by and through his counsel, Clark Hill PLC, and for his Motion to Dismiss Plaintiff's Complaint, states as follows:

1. Phillips now moves, pursuant to Fed. R. Civ. P. 12(b)(6), to dismiss Counts II – VI, XIII, XI, XII, XIII, and XIC - XV of Plaintiff Jane Doe's ("Plaintiff") Complaint, ECF # 1. In support thereof, Phillips submits an accompanying Memorandum of Law in Support of His Motion to Dismiss Plaintiff's Complaint.

2. Counts II – VI and XIC - XV assert violations of Title IX, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. Claims under these statutes are only viable against institutional recipients of federal grant money. They do not provide for liability against individual defendants. To that end, Counts II – VI and XIC - XV do not state a claim against Phillips, an individual defendant. Accordingly, they must be dismissed.

3. Plaintiff's claims for Negligence (Count XI) and Willful and Wanton Conduct (Count VIII) fail to state a claim under Rule 12(b)(6) because Plaintiff does not plead any duty

owed by Phillips, or provide any allegations that Phillips's conduct constituted a breach of any identified duties. Without facts to support essential elements of the claims, Counts VIII and XI cannot stand.

4. Counts IX, XII, and XIII, for negligent retention, negligent failure to supervise, and negligent failure to control must be dismissed against Phillips because such claims are only viable against employers. Phillips cannot be liable for negligently retaining, supervising, or failing to control himself. Counts IX, XII, and XIII fail as a matter of law against Phillips and must be dismissed.

WHEREFORE, John Phillips respectfully moves this Court to (a) dismiss Counts II – VI, XIII, XI, XII, XIII, and XIC – XV of Plaintiff's Complaint with prejudice; and (b) grant any other relief that this Court deems just and proper.

Dated: November 13, 2018

Respectfully submitted,

JOHN T. PHILLIPS

By: /s/ Mason N. Floyd
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